

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

HOWARD C. TIMKEN, JR.,)	
)	
Petitioner,)	
vs.)	Case Number CIV-20-1064-C
)	
RICK WHITTEN,)	
)	
Respondent.)	

ORDER

On December 1, 2020, United States Magistrate Suzanne Mitchell issued her Report and Recommendation (R&R) in this action in which Petitioner pursues a 28 U.S.C. § 2254 action. Judge Mitchell recommended that Petitioner's claim be dismissed for failure to timely pay the filing fee or request leave to proceed *in forma pauperis*.

Review of the Court's file reflects that on December 2, 2020, Petitioner filed a Motion for Leave to proceed IFP. That document reflects it was signed by Petitioner on November 4, 2020. As this date was within the time limits imposed by Judge Mitchell's October 27, 2020 Order, the Court finds Petitioner timely complied.

Accordingly, upon *de novo* review, the Court DECLINES to adopt the Report and Recommendation issued by the Magistrate Judge on December 1, 2020. This matter is remanded to the Magistrate Judge for further proceedings as outlined in the Court's October 21, 2020, Order.

IT IS SO ORDERED this 22nd day of December, 2020.


ROBIN J. CAUTHRON
United States District Judge